

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SADIE HACKLER, on behalf of herself
and all others similarly situated,

Plaintiff,

V.

TOLTECA ENTERPRISES, INC. d/b/a
PHOENIX RECOVERY GROUP,

Defendant.

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Case No. 5:18-CV-00911-XR

STATUS REPORT FOLLOWING CLASS NOTICE

Plaintiff and Class Representative Sadie Hackler, by and through her counsel of record, and pursuant to the Court's Order of August 3, 2020 (ECF No. 52) proposes the following new scheduling order:

1. Case Status

1. The court has granted summary judgment for Plaintiff and the class. The class notice has been disseminated and the "opt-out" deadline has passed. The issues remaining are damages and attorneys' fees.

2. Under the Fair Debt Collection Practices Act, damages in a class action are limited to the sum of actual damages plus, in a class action, such other amount that the Court may allow, not to exceed 1% of the defendant's net worth.

3. Plaintiff needs only discovery concerning actual damages and Defendant's net worth.

4. After discovery, and assuming no stipulation from Defendant, Plaintiff will file a motion for summary judgment as to damages.

5. Assuming there is a stipulation, or a motion for summary judgment is granted as to damages, then the only other issue is attorneys' fees to be awarded to Class Counsel. Class counsel intend to file a motion pursuant to Local Rule CV-7.

6. The parties have agreed to mediate the case with Manny Newburger. Mr. Newburger is an expert in the FDCPA.

7. Accordingly, the parties suggest that mediation occur on or before February 26, 2021, discovery be completed by March 1, 2021, dispositive motions be filed by no later than April 1, 2021, any other pretrial motions (other than motions in limine) by May 1, 2021 and if necessary, a pretrial order no later than 30 days before trial, followed by a final pretrial conference and a jury trial at the Court's convenience.

Dated: November 13, 2020

Respectfully submitted,

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

I certify by my signature below that on November 13, 2020, Plaintiff's counsel conferred with Tom Clarke, counsel for Tolteca Enterprises, Inc. d/b/a Phoenix Recovery Group.

Benjamin R. Bingham
WILLIAM M. CLANTON
BENJAMIN R. BINGHAM

CERTIFICATE OF SERVICE

I certify by my signature below that on November 13, 2020, I have caused the above and foregoing Advisory to be served on Counsel for Defendant through the Court's Electronic Filing and Noticing System.

Tom Clarke
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COUNSEL FOR DEFENDANT

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